

REMARKS

In the Office Action mailed from the United States Patent and Trademark Office on September 18, 2007, the claims 1-6 and 9-22 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,282,404 to Linton (hereinafter “Linton”) in view of U.S. Patent No. 6,149,441 to Pellegrino et al. (hereinafter “Pellegrino”). Applicant respectfully provides the following:

M.P.E.P. § 2141 sets forth the *Graham* factual enquiries that should be considered when making an obviousness rejection under Section 103: “Under § 103, the scope and content of the prior art are to be determined; differences between the prior art and the claims at issue are to be ascertained; and the level of ordinary skill in the pertinent art resolved.” (Citing *Graham v. John Deere*, 383 U.S. 1, 148 USPQ 459 (1966).) Additionally, one helpful standard for a Section 103 rejection is set forth in M.P.E.P 706.02(j), which provides:

To establish a *prima facie* case of obviousness, three basic criteria must be met. First there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the references or combine reference teachings. Second, there must be a reasonable expectation of success. Finally, **the prior art reference (or references when combined) must teach or suggest all the claim limitations.** The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on applicant’s disclosure. *In re Vaack*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991).

(Emphasis added). This standard is particularly helpful in evaluating the first two *Graham* factual enquiries of the scope and content of the prior art and the differences between the prior art and the claims at issue. Applicant respectfully submits that the references cited in the Office

Action, either alone or in combination, do not teach or suggest all the limitations claimed in the claim set provided herein.

As set forth in M.P.E.P. § 2143.03, all claim limitations must be considered in determining obviousness: “All words in a claim must be considered in judging the patentability of that claim against the prior art.’ *In re Wilson*, 424 F.2d 1382, 1385, 165 USPQ 494, 496 (CCPA 1970).” In the current rejections, several claim limitations were not addressed, and such limitations define over the cited references. Therefore, Applicant respectfully submits that the rejections are improper and should be removed.

Regarding claim 1, claim 1 requires the following limitations that were not addressed in the Office Action: “allowing said instructor to teach said individuals according to said lesson plan” and “assessing success of said training in improving teaching by said instructor; comprising: testing said individuals according to said measurable standards; and analyzing and correlating results of said testing according to said standards.” These limitations are not taught by either Linton or Pellegrino, and therefore, the presently-claimed invention is not made obvious by the cited references.

In the Office Action, such limitations were not addressed in the rejection of claim 1. The Office Action indicates that Linton discloses providing an instructor with training over the Internet. The Office Action also indicates that Linton discloses generation of reports based on comparisons of performance to measurable standards and provided to teachers and administrators (citing column 9 lines 36-65). The Office Action relies on Pellegrino as disclosing an online system comprising a matrix for use by an instructor in developing lesson

plans. Finally, the Office Action indicates that providing worksheets is considered to be an obvious variation of the teachings of Linton and Pellegrino. (See Office Action at page 2.) As may be seen from the Office Action, nothing in the Office Action addresses the above-recited claim limitations.

The claimed invention, as illustrated by the foregoing language recited from claim 1, goes beyond what is taught in Linton and Pellegrino, and is therefore not made obvious by those references. The claimed invention does more than just provide teaching and materials to an instructor and evaluate the instructor's comprehension of those materials. Instead, the claimed invention provides an evaluation of the instructor's improvement in teaching as a result of training the instructor. Therefore, the mere reporting of comprehension as is disclosed in Linton does not teach the further limitation of claim 1 of "printing evaluations of the success of said training by comparing the performance of said individuals before and after said training, said evaluations to be used by said instructor to modify behavior of said instructor."

Regarding Linton, Linton teaches a system for teaching and reporting of an instructional segment via a computer. (Abstract) The system of Linton only teaches providing a presentation, evaluating understanding of the presentation, and reporting the results of the presentation and evaluation by the computer. (Col 2 lines 24-34; see also Col 9 lines 36-46) No further involvement by the learner (such as a teacher) is disclosed in Linton. Therefore, Linton does not teach allowing an instructor who has received training to teach others according to the training and then assessing success of the training in improving teaching by the instructor, as is required by claim 1.

Regarding Pellegrino, Pellegrino teaches a computer-based teaching system where the teacher prepares customized lessons, and then the lessons are presented by a computer.

(Abstract; see also Col 2 lines 62-65, Col 3 lines 30-31 and lines 49-52, Col 26 lines 7-8.)

Therefore, in Pellegrino, the teacher does not present the lesson at all (while claim 1 requires allowing the instructor to teach according to the lesson plan and assessing success of the training in improving the instructor's teaching). Therefore, Pellegrino also fails to teach what is not taught by Linton.

Therefore, as neither Linton nor Pellegrino teaches the claim limitations that were not addressed in the office action, the combination of Linton and Pellegrino also fails to teach such limitations. Therefore, in evaluating the scope and content of the prior art and the differences between the prior art and the claimed invention, it is clear that claim 1 is not made obvious by the cited references, either alone or in combination.

Claim 9 contains similar limitations to those discussed above. Namely, claim 9 requires: "facilitating said instructor's instruction of individuals in said profession using said instructional plan and said information," "evaluating comprehension of said individuals of said instruction, comprising: testing said individuals on said comprehension; analyzing said comprehension based on said testing and said information," and "utilizing the Internet to assess said instructor's implementation of the information in said instructor's instruction." Claim 9 is therefore also not made obvious by the cited references.

Claim 12 also contains similar limitations, namely "implementing said lesson plan into lessons for students," "testing said students to gauge the effectiveness of said implementation,"

“generating assessment data from results of said testing said students,” “analyzing said data to asses said at least one professional’s implementation of said matrix through a test,” and “utilizing said analyzing said data to evaluate professional development training.” Applicant respectfully submits that claim 12 is therefore not obvious.

Claim 18 also contains similar limitations that define over the cited art. Claim 18 recites: “teaching a lesson to the students by the professional instructor according to the lesson plan prepared by the professional instructor using the template for a lesson plan,” “testing the students to determine whether the students learned desired information in accordance with the standards of expected performance,” “deriving assessment data of the professional instructor from the testing of the students,” “assessing the professional instructor based on the assessment data,” and “assessing effectiveness of training the professional instructor based on the assessment data.” Claim 18 is therefore not obvious over the cited references.

Claims 2-6, 10-11, 13-17, and 19-22 depend from one of claims 1, 9, 12, and 18, and are therefore also allowable. *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) (If an independent claim is nonobvious under 35 U.S.C. § 103, then any claim depending therefrom is nonobvious.).


Applicant therefore respectfully requests removal of all rejections under 35 U.S.C. § 103(a).

CONCLUSION

Applicant submits the claims are now in condition for allowance and respectfully requests the same. If any impediments to this application remain after consideration of the foregoing amendments and remarks, the Examiners is invited to initiate a telephone conference with the undersigned attorney of record.

DATED this 17 day of January, 2008.

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